

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:07-HC-2072-D

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.)
)
 JOSEPH FRANK,)
 Register Number 10314-085,)
)
 Respondent.)

ORDER

On June 30, 2010, Joseph Frank (“Frank” or “respondent”) filed a motion for a hearing [D.E. 24] on the merits of the government’s petition for respondent’s commitment pursuant to 18 U.S.C. § 4248. On the same day, Frank also filed a motion to dismiss [D.E. 23] the government’s petition, but “requests this Court hold this Motion to Dismiss in abeyance pending the outcome of the § 4248 hearing.” Mot. Dismiss at 3.

The parties have commenced discovery in anticipation of the hearing, and on November 18, 2010, the government filed a motion to seal [D.E. 40] several forensic reports in the record, along with all future forensic reports. By order filed November 9, 2010, the court granted Frank an extension of time for discovery, and Frank has until March 7, 2011, in which to serve his initial disclosures.

In light of the parties’ efforts to litigate the merits of the government’s petition, respondent’s motion to dismiss [D.E. 23] is DENIED WITHOUT PREJUDICE. The government’s motion to seal [D.E. 40] is ALLOWED. Furthermore, pursuant to Fed. R. Civ. P. 5.2(d), L. Civ. R. 79.2, EDNC, and Section T of the court’s CM/ECF Administrative Policy Manual, the court ORDERS that the

parties file any future forensic evaluations or other psychological or psychiatric documents in this case under seal, whether such documents are produced by government evaluators, independent examiners appointed by order of this court, or other mental health professionals.

Frank's motion for a hearing [D.E. 24] is also ALLOWED. The court refers to United States Magistrate Judge James E. Gates all prehearing matters in this case. Magistrate Judge Gates shall hear and determine all prehearing procedural or discovery motions, and all other non-dispositive prehearing matters, including conducting any final prehearing conference, and shall submit reports and recommendations and conduct any associated hearings on all remaining prehearing matters, pursuant to 28 U.S.C. § 636(b)(1)(A) & (B), (3), Local Civil Rules 72.3(a)-(c), (h), EDNC, and Standing Order No. 10-SO-01, ¶ 5 (E.D.N.C. Aug. 4, 2010).

SO ORDERED. This 30 day of November 2010.


JAMES C. DEVER III
United States District Judge